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June 29, 1999

RECEIVED

JUN 29 1999

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

VIA HAND DELIVERY

Magalie Roman Salas, Secretary  
Federal Communications Commission  
The Portals  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

Re: Ex Parte Presentation in CC Docket No. 98-84  
Petition for Preemption of McLeodUSA Telecommunications Services, Inc.

Dear Ms. Salas:

Pursuant to Sections 1.1206(a) and (b) of the Commission's Rules, 47 C.F.R. § 1.1206(a) and (b), this letter is to provide notice of a written *ex parte* presentation by McLeodUSA Telecommunications Services, Inc. ("McLeodUSA") submitted in the above-referenced proceeding on Tuesday, June 29, 1999. Julie Patterson of the Common Carrier Bureau has been provided with the attached materials, consisting of copies of the decisions cited by McLeodUSA in its Petition for Preemption and, where applicable, copies of the decisions issued by state courts upon appeal in those cases. McLeodUSA has also provided Ms. Patterson with a copy of the attached Nebraska Public Service Commission 1998 Annual Report on the Status of the Nebraska Telecommunications Industry, which on pages 10 and 11 identifies those few competitive carriers that "are currently positioned to offer local service in their authorized territories."

Pursuant to the Public Notice in this matter, a copy of this letter has also been served upon all parties to this docket. Because the attached materials are relatively voluminous, they have not been sent to the other parties to this proceeding, although they will be made available by counsel for McLeodUSA to individual parties upon request.

No. of Copies rec'd  
List ABCDE

041

Magalie Roman Salas, Secretary  
Federal Communications Commission  
June 29, 1999  
Page 2

Thank you for your attention to this correspondence. Pursuant to the Commission's rules, an original and one (1) copy of this letter and the relevant attachments are provided. Please date-stamp and return the additional copy of this letter for our records.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael R. Romano".

Michael R. Romano

Counsel for  
McLeodUSA Telecommunications Services, Inc.

Enclosures

cc: Julie Patterson  
Service List (w/out encl.)

**CERTIFICATE OF SERVICE**

I, Michael R. Romano, hereby certify that a copy of the foregoing *Ex Parte* Presentation in CC Docket No. 98-84, McLeodUSA Telecommunications Services, Inc. Petition for Preemption of McLeodUSA Telecommunications Services, Inc. was sent to each of the following parties by hand delivery\* and by postage prepaid, U.S. Mail on this 29<sup>th</sup> day of June, 1999.

**SEE ATTACHED SERVICE LIST**

A handwritten signature in black ink, appearing to read "Michael R. Romano", is written over a horizontal line.

Michael R. Romano

**SERVICE LIST FOR DOCKET NO. 98-84**

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ANNUAL REPORT TO THE LEGISLATURE  
ON THE STATUS OF  
THE NEBRASKA TELECOMMUNICATIONS INDUSTRY

**RECEIVED**

JUN 29 1999

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

NEBRASKA PUBLIC SERVICE COMMISSION

September 30, 1998

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## 1998 ANNUAL REPORT TO THE LEGISLATURE

### Nebraska Public Service Commissioners

Lowell Johnson  
3rd District  
North Bend  
Chairman

Frank Landis  
1st District  
Lincoln  
Vice-Chairman

Anne Boyle  
2nd District  
Omaha

Rod Johnson  
4th District  
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Dan Urwiller  
5th District  
Ravenna

### Communications Department Staff

Gene Hand - Director  
John Burvainis - Deputy Director  
John Doyle - Staff Attorney  
Chris Post - Staff Attorney  
Steve Stovall - Staff Accountant  
Dick Palazzolo - Technician  
Cheryl Elton - Consumer Affairs Advocate  
Dawn McFarland - Secretary  
Rose Price - Secretary

September 30, 1998

From the Chairman:

I take pleasure in providing you the 1998 Annual Telecommunications Report of the Nebraska Public Service Commission. This year has been exciting and fast paced, as reflected in the various sections of this report. Technology, economics, and changes in state and federal policy are driving major changes across the communications industry at an unprecedented tempo.

The major force behind many changes is the federal Telecommunications Act of 1996. In this report, you will find information on a number of issues including universal service, access charges, and competition in the local marketplace, all of which are driven by the Act.

Telephone complaints have increased by 25 percent over the past year. Long distance companies accounted for 57.2 percent of the complaints while local phone companies accounted for 42.8 percent. The major areas of complaints are billing, slamming, and service.

There are 47 incumbent local exchange carriers (ILEC) and 22 competitive local exchange carriers (CLEC), but the number of long distance companies in Nebraska has grown to over 250. The long distance market is a highly-competitive market nationally as well as in our state.

Our Commission is currently addressing some of the most important telecommunications issues to come before it in recent memory. We have several pending dockets concerning US West, which is Nebraska's largest phone company. We are poised to enter a very significant order dealing with access charge reform and universal service. We have also examined Internet telephony and its impact on the telecommunications industry. Most recently, the Commission reaffirmed its policy of requiring local phone companies to maintain a 24-hour, public telephone in every Nebraska community.

Seventy petitions seeking extended area service (EAS) were filed with the Commission this past year. This is certainly an indication of the high interest and desire of a great number of telephone subscribers for expanded service. Thus far, only one has been granted. Sixty-three petitions were dismissed for either failure to meet traffic criteria or failure to approve the proposed EAS rate through balloting prescribed by Commission rules. Six petitions remain pending.

Telephone companies continue to rebalance their rates in light of the



Telecommunications Act of 1996. Companies are adjusting their rates to come into compliance with the Act's provisions that services must pay for themselves, thereby removing reliance on implicit revenue subsidies from other services.

Part IV of this report indicates areas in which the Public Service Commission recommends legislation be considered for the 1998 Legislative Session.

The Commission has expanded its outreach to the public in two specific ways. The first is expanding the information available on its web site. Our site now contains pending dockets, comments filed in pending dockets, and certificated carrier lists. Secondly, the Commission has made a concerted effort to reach the public through state and local media releases.

The Nebraska Public Service Commission is working diligently to meet the challenges of a changing telecommunications industry. My warm appreciation and recognition are extended to my fellow Commissioners and to the Nebraska Public Service Commission staff for their diligence, hard work, and dedication in our mutual quest of just, reasonable, and affordable service for all Nebraska's citizens.

Please feel free to provide us with comments or questions on this report at any time.

Sincerely,

Lowell C. Johnson  
Chairman

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# ACCESS LINE & EXCHANGE DATA

January 1, 1998

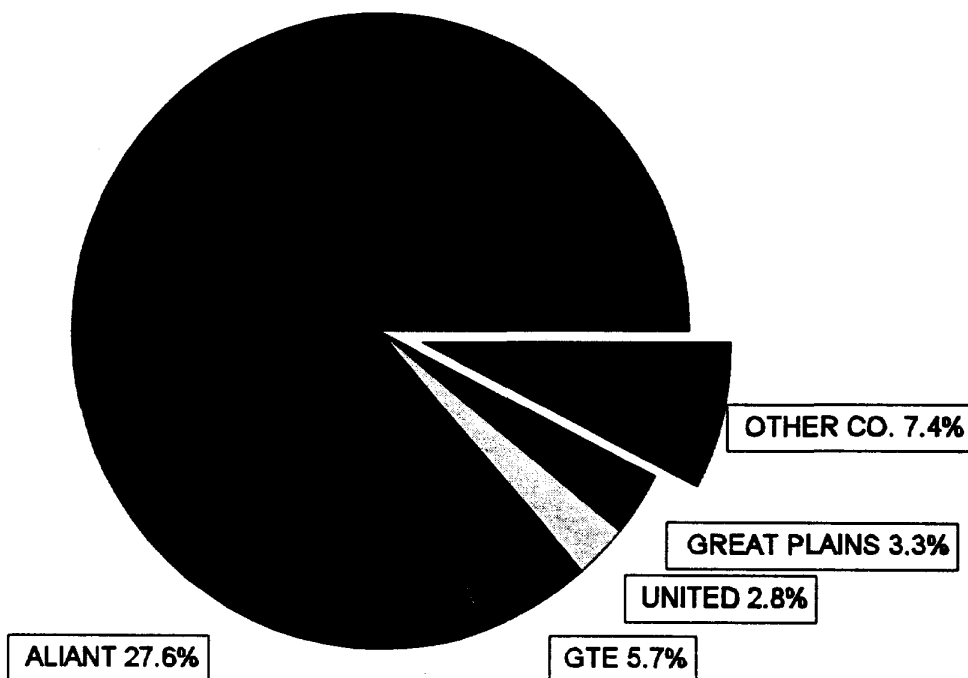
COMPANY	ACCESS LINES			NUMBER OF EXCHANGES
	BUS.	RES.	TOTAL	
US WEST	159091	366121	525212	69
ALIAN	84696	188312	273008	137
GTE	18691	38097	56788	37
GREAT PLAINS	7215	25877	33092	63
SPRINT/UNITED	8741	19456	28197	13
NEBRASKA CENTRAL	1587	7196	8783	20
BLAIR	1949	5530	7479	3
HAMILTON	1835	4437	6272	9
SOUTHEAST NEBRASKA	855	3282	4137	2
NORTHEAST NEBRASKA	629	3505	4134	12
CONSOLIDATED	767	2268	3035	15
NEBCOM	492	2499	2991	7
COZAD	745	2233	2978	1
EASTERN NEBRASKA	793	2030	2823	8
GLENWOOD	495	2256	2751	9
ARAPAHOE	485	1984	2469	7
PIERCE	409	1512	1921	2
HARTINGTON	525	1069	1594	1
CONSOLIDATED TELCO	369	1214	1583	5
DALTON	297	984	1299	5
CAMBRIDGE	372	927	1281	2
HOOPER	262	1002	1264	2
THREE RIVER	231	1020	1251	5
BENKELMAN	345	898	1243	1
PLAINVIEW	241	923	1164	1
STANTON	295	862	1157	1
ARLINGTON	139	923	1062	1
ROCK COUNTY	242	768	1010	2
HENDERSON	260	729	989	1
CLARKS	136	831	967	3
HEMINGFORD	157	772	929	1
DILLER	120	787	907	4
HERSHEY	184	668	852	1
HOME	102	723	834	2
CURTIS	220	614	825	1
WAUNETA	143	518	661	1
K&M	126	523	650	2
KEYSTONE-ARTHUR	83	535	618	2
EUSTIS	85	399	484	1
HARTMAN	3	438	441	3
ELSIE	43	166	209	1
SODTOWN	4	83	87	1
TOTAL	294459	694971	989431	464

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TOTAL	294459	694971	989431	464

# ACCESS LINES - 1997

State of Nebraska

US WEST 53.1%



# Part I

## PART I

### Review of the Quality of Telecommunications Service Provided to Nebraska Citizens

#### 1. Telephone Complaints

The following table shows the total number of complaints filed this year and divides the complaints between local exchange carriers (LECs) and interexchange carriers (IXCs), also known as long distance companies. The complaints catalogued in the "other" category include complaints filed against non-regulated utilities, such as cellular and cable television providers.

COMPLAINTS	1996-1997 Complaints	1996-1997 Complaint Percentage	1997-1998 Complaints	1997-1998 Complaint Percentage
LECs	288	53.5%	289	42.8%
IXCs	246	45.7%	386	57.2%
Other	4	0.8%	0	0%
TOTAL	538	100.0%	675	100.0%

Complaints were separated into the following categories:

COMPLAINTS	7/01/94 6/30/95	7/01/95 6/30/96	7/01/96 6/30/97	7/01/97 6/30/98
Service	162	310	158	114
Billing	179	222	178	204
800/900	179	7	11	9
Misc.	78	129	116	184
Slammed	*	66	65	148
Disconnect	*	16	9	15
Cellular	*	3	1	1
TOTAL	598	753	538	675

\* Statistics not available for these periods.

Miscellaneous complaints include harassing calls, unfilled requests to establish various optional features (e.g., Caller ID), lack of the availability for Extended Area Service (EAS), equal access, as well as local Internet access and availability. Billing complaints primarily consist of billing errors and large deposit requests imposed by both LECs and IXC's, as well as costly surcharges imposed by private payphone providers. A noticeable reduction in service complaints was made by US West, as described below.

### **A. Local Exchange Carriers (LECs)**

There are 69 LECs in Nebraska (including the cooperative telephone companies). US West is the largest LEC with 525,212 access lines, while Sodtoun Telephone Company has only 87 access lines. The following table shows the LEC complaints by company. As one would expect, the largest number of complaints involved the two largest LECs, US West and Aliant (formerly known as Lincoln Telephone).

LECs	96-97 Complaints	96-97 Access Lines	96-97 Percent of Total Lines	97-98 Complaints	97-98 Access Lines	97-98 Percent of Total Lines
US West	223	517,410	53.3%	171	525,212	59.2%
Aliant	35	282,947	29.2%	63	273,008	21.8%
GTE of the Midwest	15	52,873	5.5%	22	56,788	7.6%
Great Plains	5	26,032	2.7%	3	33,092	1.1%
United Tel.	4	26,751	2.8%	10	28,197	3.4%
Others	6	63,701	6.5%	20	73,134	6.9%
<b>TOTAL</b>	<b>288</b>	<b>969,714</b>	<b>100.0%</b>	<b>289</b>	<b>989,431</b>	<b>100.0%</b>

## **B. Interexchange Carriers (IXCs)**

The number of long distance companies certificated to operate continues to grow. Currently, there are over 250 companies authorized to provide long distance services in Nebraska. The following table shows the number of complaints filed against long distance companies. The largest number of complaints involved AT&T and MCI. Customers can be sure they have the long distance carrier of their choice by dialing the toll-free telephone number (700) 555-4141.

<b>Interexchange Carrier</b>	<b>1997-98 Complaints</b>
AT&T	56
MCI	54
Sprint	34
Minimum Rate Pricing	24
LCI International	18
Excel	8
Misc.	192
<b>TOTAL</b>	<b>386</b>

## **C. Formal Complaints**

The following formal complaints were filed with the Commission during the past year:

*Wentworth Apartments, Inc., by and through its agent, Cox Nebraska Telecom II, LLC, vs. US West Communications, Inc.*

Cox filed a formal complaint against US West charging that US West would not reconfigure its existing network to allow competitive access to multi dwelling unit (MDU) property. The Commission opened Docket No. C-1878 to examine this issue and develop a policy to apply to all carriers. Pursuant to C-1878 being opened, Cox dismissed its complaint.

The Commission received comments on the issue from diverse interests from throughout the country. It held a hearing in mid-September and asked interested parties to file post-hearing briefs.



*Thomas A. or Chana J. Marsh (of Shelby) vs. Aliant Communications*

Thomas and Chana Marsh filed a formal complaint against Aliant for additional charges related to the construction of a telephone line to their residence. Aliant proposed charging the Marshes a reduced rate of \$769.50 for approximately one-half mile of construction. The Marshes were informed of Aliant's proposal but rejected the offer. This matter has been set for hearing on October 26, 1998.

*Tel-Save, Inc. (a Delaware corporation) vs. US West Communications, Inc.*

Tel-Save, Inc. filed a formal complaint against US West for violation of Sections 201(b) and 202 of the Communications Act, as amended, and violation of Neb. Rev. Stat. Section 75-126. The basis of the complaint is that US West does not permit end-user customers to lift primary interexchange carrier (PIC) freezes by means of e-mail, whether transmitted directly by the customer or forwarded by Tel-Save, Inc. A request was made to hold the complaint in abeyance until August 10, 1998, so that the parties could resolve the issue. On August 7, 1998, both parties requested the Commission recommence the proceedings since an agreement could not be reached.

## **D. Relay System Complaints**

Consumer complaints related to the relay system totaled 30 for the 1997-98 fiscal year, as compared to 27 in 1996-97. Of the 30 complaints received, nearly two thirds involved Communications Assistants (CA) related issues. The "CA Other" category in the table below consists of three complaints relating to errors in CA unfamiliarity with voice carry over (VCO), one involving a computer monitor malfunction, and two related to answering machine procedures.

Type of Complaint	Total Number
Network - Appl. Software	2
Network - Infrastructure	9
CA# Dialed	0
CA Spelling	1
CA Speed	1
CA Staffing	6
CA Etiquette	5
CA Other	6
TOTAL	30

## **2. Service Testing**

The Commission ensures Nebraskans are receiving quality telecommunications service by independently testing telephone companies. During the past year, the Commission staff made numerous test calls in a number of telephone exchanges. All local exchange carriers are now using digital switches; as of the end of 1997, 100 percent of Nebraska switches were digital. Besides providing independent testing, the Commission's technical staff offers consumer assistance. Our technician visited several homes and businesses across the state to assist the Commission in resolving service complaints. For example, the staff jointly conducted tests with US West, Omaha Public Power District and Fox/Channel 42 designed to isolate interference problems experienced by telephone customers who live near Gretna. Similar tests were performed at a power pumping station in Lincoln County to assist Curtis Telephone Company and McCook Public Power in resolving a power influence problem affecting some Curtis customers. Another problem currently under investigation is suspected to be interference caused by a commercial radio station in Western Nebraska.